

AMENDED IN SENATE JULY 14, 2009

AMENDED IN SENATE JUNE 30, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 720**

---

---

**Introduced by Assembly Member Caballero**

February 26, 2009

---

---

An act to amend Sections 65400, 65582, 65583, and 65583.1 of the Government Code, relating to land use.

### LEGISLATIVE COUNSEL'S DIGEST

AB 720, as amended, Caballero. Land use: housing element.

The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that analyzes existing and projected housing needs and includes a statement of goals, quantified objectives, policies, financial resources, and scheduled programs for the maintenance, preservation, improvement, and development of housing. The housing element is required to identify the existing and projected housing needs of all economic segments of the community. The Department of Housing and Community Development is authorized to allow a city, county, or city and county to substitute the provision of units for up to 25% of the community's obligation to identify adequate sites for any income category in its housing element, as specified, when the community includes in its housing element a program committing the local government to provide

units in that income category within the city, county, or city and county that will be made available through the provision of committed assistance during the planning period covered by the housing element to low- and very low income households at affordable housing costs or affordable rents, as defined. Units that are to be substantially rehabilitated with committed assistance from the city, county, or city and county and constitute a net increase in the community's housing stock may be included in this housing element program, if the units meet certain criteria. Existing law defines various terms for use of these provisions.

This bill would authorize a city, county, or city and county to include weatherization and energy efficiency improvements as part of its efforts to substantially rehabilitate a unit, and modify the definition of "committed assistance" for purposes of specified provisions. The bill would also define "planning period" and "projection period" for purposes of specified provisions, if SB 575 is not enacted.

The Planning and Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs.

This bill would authorize the planning agency to include in its annual report the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved, as defined.

*This bill would incorporate additional changes in Section 65583 of the Government Code proposed by SB 575, that would become operative only if SB 575 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65400 of the Government Code is
- 2 amended to read:
- 3 65400. (a) After the legislative body has adopted all or part
- 4 of a general plan, the planning agency shall do both of the
- 5 following:

1 (1) Investigate and make recommendations to the legislative  
2 body regarding reasonable and practical means for implementing  
3 the general plan or element of the general plan, so that it will serve  
4 as an effective guide for orderly growth and development,  
5 preservation and conservation of open-space land and natural  
6 resources, and the efficient expenditure of public funds relating to  
7 the subjects addressed in the general plan.

8 (2) Provide by April 1 of each year an annual report to the  
9 legislative body, the Office of Planning and Research, and the  
10 Department of Housing and Community Development that includes  
11 all of the following:

12 (A) The status of the plan and progress in its implementation.

13 (B) The progress in meeting its share of regional housing needs  
14 determined pursuant to Section 65584 and local efforts to remove  
15 governmental constraints to the maintenance, improvement, and  
16 development of housing pursuant to paragraph (3) of subdivision  
17 (c) of Section 65583.

18 The housing element portion of the annual report, as required  
19 by this paragraph, shall be prepared through the use of forms and  
20 definitions adopted by the Department of Housing and Community  
21 Development pursuant to the rulemaking provisions of the  
22 Administrative Procedure Act (Chapter 3.5 (commencing with  
23 Section 11340) of Part 1 of Division 3 of Title 2). Prior to and after  
24 adoption of the forms, the housing element portion of the annual  
25 report shall include a section that describes the actions taken by  
26 the local government towards completion of the programs and  
27 status of the local government's compliance with the deadlines in  
28 its housing element. That report shall be considered at an annual  
29 public meeting before the legislative body where members of the  
30 public shall be allowed to provide oral testimony and written  
31 comments.

32 The report may include the number of units that have been  
33 substantially rehabilitated, converted from nonaffordable to  
34 affordable by acquisition, and preserved consistent with the  
35 standards set forth in paragraph (2) of subdivision (c) of Section  
36 65583.1. The report shall document how the units meet the  
37 standards set forth in that subdivision.

38 (C) The degree to which its approved general plan complies  
39 with the guidelines developed and adopted pursuant to Section  
40 65040.2 and the date of the last revision to the general plan.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

1 (h) "Planning period" means the time period between the due  
2 date for one housing element and the due date for the next housing  
3 element.

4 (i) "Projection period" means the time period for which the  
5 regional housing need is calculated.

6 *SEC. 3. Section 65583 of the Government Code is amended to*  
7 *read:*

8 65583. The housing element shall consist of an identification  
9 and analysis of existing and projected housing needs and a  
10 statement of goals, policies, quantified objectives, financial  
11 resources, and scheduled programs for the preservation,  
12 improvement, and development of housing. The housing element  
13 shall identify adequate sites for housing, including rental housing,  
14 factory-built housing, mobilehomes, and emergency shelters, and  
15 shall make adequate provision for the existing and projected needs  
16 of all economic segments of the community. The element shall  
17 contain all of the following:

18 (a) An assessment of housing needs and an inventory of  
19 resources and constraints relevant to the meeting of these needs.  
20 The assessment and inventory shall include all of the following:

21 (1) An analysis of population and employment trends and  
22 documentation of projections and a quantification of the locality's  
23 existing and projected housing needs for all income levels,  
24 including extremely low income households, as defined in  
25 subdivision (b) of Section 50105 and Section 50106 of the Health  
26 and Safety Code. These existing and projected needs shall include  
27 the locality's share of the regional housing need in accordance  
28 with Section 65584. Local agencies shall calculate the subset of  
29 very low income households allotted under Section 65584 that  
30 qualify as extremely low income households. The local agency  
31 may either use available census data to calculate the percentage  
32 of very low income households that qualify as extremely low  
33 income households or presume that 50 percent of the very low  
34 income households qualify as extremely low income households.  
35 The number of extremely low income households and very low  
36 income households shall equal the jurisdiction's allocation of very  
37 low income households pursuant to Section 65584.

38 (2) An analysis and documentation of household characteristics,  
39 including level of payment compared to ability to pay, housing

1 characteristics, including overcrowding, and housing stock  
2 condition.

3 (3) An inventory of land suitable for residential development,  
4 including vacant sites and sites having potential for redevelopment,  
5 and an analysis of the relationship of zoning and public facilities  
6 and services to these sites.

7 (4) (A) The identification of a zone or zones where emergency  
8 shelters are allowed as a permitted use without a conditional use  
9 or other discretionary permit. The identified zone or zones shall  
10 include sufficient capacity to accommodate the need for emergency  
11 shelter identified in paragraph (7), except that each local  
12 government shall identify a zone or zones that can accommodate  
13 at least one year-round emergency shelter. If the local government  
14 cannot identify a zone or zones with sufficient capacity, the local  
15 government shall include a program to amend its zoning ordinance  
16 to meet the requirements of this paragraph within one year of the  
17 adoption of the housing element. The local government may  
18 identify additional zones where emergency shelters are permitted  
19 with a conditional use permit. The local government shall also  
20 demonstrate that existing or proposed permit processing,  
21 development, and management standards are objective and  
22 encourage and facilitate the development of, or conversion to,  
23 emergency shelters. Emergency shelters may only be subject to  
24 those development and management standards that apply to  
25 residential or commercial development within the same zone except  
26 that a local government may apply written, objective standards  
27 that include all of the following:

28 (i) The maximum number of beds or persons permitted to be  
29 served nightly by the facility.

30 (ii) Off-street parking based upon demonstrated need, provided  
31 that the standards do not require more parking for emergency  
32 shelters than for other residential or commercial uses within the  
33 same zone.

34 (iii) The size and location of exterior and interior onsite waiting  
35 and client intake areas.

36 (iv) The provision of onsite management.

37 (v) The proximity to other emergency shelters, provided that  
38 emergency shelters are not required to be more than 300 feet apart.

39 (vi) The length of stay.

40 (vii) Lighting.

1 (viii) Security during hours that the emergency shelter is in  
2 operation.

3 (B) The permit processing, development, and management  
4 standards applied under this paragraph shall not be deemed to be  
5 discretionary acts within the meaning of the California  
6 Environmental Quality Act (Division 13 (commencing with Section  
7 21000) of the Public Resources Code).

8 (C) A local government that can demonstrate to the satisfaction  
9 of the department the existence of one or more emergency shelters  
10 either within its jurisdiction or pursuant to a multijurisdictional  
11 agreement that can accommodate that jurisdiction's need for  
12 emergency shelter identified in paragraph (7) may comply with  
13 the zoning requirements of subparagraph (A) by identifying a zone  
14 or zones where new emergency shelters are allowed with a  
15 conditional use permit.

16 (D) A local government with an existing ordinance or ordinances  
17 that comply with this paragraph shall not be required to take  
18 additional action to identify zones for emergency shelters. The  
19 housing element must only describe how existing ordinances,  
20 policies, and standards are consistent with the requirements of this  
21 paragraph.

22 (5) An analysis of potential and actual governmental constraints  
23 upon the maintenance, improvement, or development of housing  
24 for all income levels, including the types of housing identified in  
25 paragraph (1) of subdivision (c), and for persons with disabilities  
26 as identified in the analysis pursuant to paragraph (7), including  
27 land use controls, building codes and their enforcement, site  
28 improvements, fees and other exactions required of developers,  
29 and local processing and permit procedures. The analysis shall  
30 also demonstrate local efforts to remove governmental constraints  
31 that hinder the locality from meeting its share of the regional  
32 housing need in accordance with Section 65584 and from meeting  
33 the need for housing for persons with disabilities, supportive  
34 housing, transitional housing, and emergency shelters identified  
35 pursuant to paragraph (7). Transitional housing and supportive  
36 housing shall be considered a residential use of property, and shall  
37 be subject only to those restrictions that apply to other residential  
38 dwellings of the same type in the same zone.

39 (6) An analysis of potential and actual nongovernmental  
40 constraints upon the maintenance, improvement, or development

1 of housing for all income levels, including the availability of  
2 financing, the price of land, and the cost of construction.

3 (7) An analysis of any special housing needs, such as those of  
4 the elderly, persons with disabilities, large families, farmworkers,  
5 families with female heads of households, and families and persons  
6 in need of emergency shelter. The need for emergency shelter shall  
7 be assessed based on annual and seasonal need. The need for  
8 emergency shelter may be reduced by the number of supportive  
9 housing units that are identified in an adopted 10-year plan to end  
10 chronic homelessness and that are either vacant or for which  
11 funding has been identified to allow construction during the  
12 planning period.

13 (8) An analysis of opportunities for energy conservation with  
14 respect to residential development. *Cities and counties are*  
15 *encouraged to include weatherization and energy efficiency*  
16 *improvements as part of publicly subsidized housing rehabilitation*  
17 *projects. This may include energy efficiency measures that*  
18 *encompass the building envelope, its heating and cooling systems,*  
19 *and its electrical system.*

20 (9) An analysis of existing assisted housing developments that  
21 are eligible to change from low-income housing uses during the  
22 next 10 years due to termination of subsidy contracts, mortgage  
23 prepayment, or expiration of restrictions on use. "Assisted housing  
24 developments," for the purpose of this section, shall mean  
25 multifamily rental housing that receives governmental assistance  
26 under federal programs listed in subdivision (a) of Section  
27 65863.10, state and local multifamily revenue bond programs,  
28 local redevelopment programs, the federal Community  
29 Development Block Grant Program, or local in-lieu fees. "Assisted  
30 housing developments" shall also include multifamily rental units  
31 that were developed pursuant to a local inclusionary housing  
32 program or used to qualify for a density bonus pursuant to Section  
33 65916.

34 (A) The analysis shall include a listing of each development by  
35 project name and address, the type of governmental assistance  
36 received, the earliest possible date of change from low-income  
37 use, and the total number of elderly and nonelderly units that could  
38 be lost from the locality's low-income housing stock in each year  
39 during the 10-year period. For purposes of state and federally



1 funded projects, the analysis required by this subparagraph need  
2 only contain information available on a statewide basis.

3 (B) The analysis shall estimate the total cost of producing new  
4 rental housing that is comparable in size and rent levels, to replace  
5 the units that could change from low-income use, and an estimated  
6 cost of preserving the assisted housing developments. This cost  
7 analysis for replacement housing may be done aggregately for  
8 each five-year period and does not have to contain a  
9 project-by-project cost estimate.

10 (C) The analysis shall identify public and private nonprofit  
11 corporations known to the local government which have legal and  
12 managerial capacity to acquire and manage these housing  
13 developments.

14 (D) The analysis shall identify and consider the use of all federal,  
15 state, and local financing and subsidy programs which can be used  
16 to preserve, for lower income households, the assisted housing  
17 developments, identified in this paragraph, including, but not  
18 limited to, federal Community Development Block Grant Program  
19 funds, tax increment funds received by a redevelopment agency  
20 of the community, and administrative fees received by a housing  
21 authority operating within the community. In considering the use  
22 of these financing and subsidy programs, the analysis shall identify  
23 the amounts of funds under each available program which have  
24 not been legally obligated for other purposes and which could be  
25 available for use in preserving assisted housing developments.

26 (b) (1) A statement of the community's goals, quantified  
27 objectives, and policies relative to the maintenance, preservation,  
28 improvement, and development of housing.

29 (2) It is recognized that the total housing needs identified  
30 pursuant to subdivision (a) may exceed available resources and  
31 the community's ability to satisfy this need within the content of  
32 the general plan requirements outlined in Article 5 (commencing  
33 with Section 65300). Under these circumstances, the quantified  
34 objectives need not be identical to the total housing needs. The  
35 quantified objectives shall establish the maximum number of  
36 housing units by income category, including extremely low income,  
37 that can be constructed, rehabilitated, and conserved over a  
38 five-year time period.

39 (c) A program which sets forth a schedule of actions during the  
40 planning period, each with a timeline for implementation, which

1 may recognize that certain programs are ongoing, such that there  
2 will be beneficial impacts of the programs within the planning  
3 period, that the local government is undertaking or intends to  
4 undertake to implement the policies and achieve the goals and  
5 objectives of the housing element through the administration of  
6 land use and development controls, the provision of regulatory  
7 concessions and incentives, and the utilization of appropriate  
8 federal and state financing and subsidy programs when available  
9 and the utilization of moneys in a low- and moderate-income  
10 housing fund of an agency if the locality has established a  
11 redevelopment project area pursuant to the Community  
12 Redevelopment Law (Division 24 (commencing with Section  
13 33000) of the Health and Safety Code). In order to make adequate  
14 provision for the housing needs of all economic segments of the  
15 community, the program shall do all of the following:

16 (1) Identify actions that will be taken to make sites available  
17 during the planning period of the general plan with appropriate  
18 zoning and development standards and with services and facilities  
19 to accommodate that portion of the city's or county's share of the  
20 regional housing need for each income level that could not be  
21 accommodated on sites identified in the inventory completed  
22 pursuant to paragraph (3) of subdivision (a) without rezoning, and  
23 to comply with the requirements of Section 65584.09. Sites shall  
24 be identified as needed to facilitate and encourage the development  
25 of a variety of types of housing for all income levels, including  
26 multifamily rental housing, factory-built housing, mobilehomes,  
27 housing for agricultural employees, supportive housing,  
28 single-room occupancy units, emergency shelters, and transitional  
29 housing.

30 (A) Where the inventory of sites, pursuant to paragraph (3) of  
31 subdivision (a), does not identify adequate sites to accommodate  
32 the need for groups of all household income levels pursuant to  
33 Section 65584, rezoning of those sites, including adoption of  
34 minimum density and development standards, for jurisdictions  
35 with an eight-year housing element planning period pursuant to  
36 Section 65588, shall be completed no later than three years after  
37 either the date the housing element is adopted pursuant to  
38 subdivision (f) of Section 65585 or the date that is 90 days after  
39 receipt of comments from the department pursuant to subdivision  
40 (b) of Section 65585, whichever is earlier, unless the deadline is

1 extended pursuant to subdivision (f). Notwithstanding the  
2 foregoing, for a local government that fails to adopt a housing  
3 element within 120 days of the statutory deadline in Section 65588  
4 for adoption of the housing element, rezoning of those sites,  
5 including adoption of minimum density and development standards,  
6 shall be completed no later than three years and 120 days from the  
7 statutory deadline in Section 65588 for adoption of the housing  
8 element.

9 (B) Where the inventory of sites, pursuant to paragraph (3) of  
10 subdivision (a), does not identify adequate sites to accommodate  
11 the need for groups of all household income levels pursuant to  
12 Section 65584, the program shall identify sites that can be  
13 developed for housing within the planning period pursuant to  
14 subdivision (h) of Section 65583.2. The identification of sites shall  
15 include all components specified in subdivision (b) of Section  
16 65583.2.

17 (C) Where the inventory of sites pursuant to paragraph (3) of  
18 subdivision (a) does not identify adequate sites to accommodate  
19 the need for farmworker housing, the program shall provide for  
20 sufficient sites to meet the need with zoning that permits  
21 farmworker housing use by right, including density and  
22 development standards that could accommodate and facilitate the  
23 feasibility of the development of farmworker housing for low- and  
24 very low income households.

25 (2) Assist in the development of adequate housing to meet the  
26 needs of extremely low, very low, low-, and moderate-income  
27 households.

28 (3) Address and, where appropriate and legally possible, remove  
29 governmental constraints to the maintenance, improvement, and  
30 development of housing, including housing for all income levels  
31 and housing for persons with disabilities. The program shall remove  
32 constraints to, and provide reasonable accommodations for housing  
33 designed for, intended for occupancy by, or with supportive  
34 services for, persons with disabilities.

35 (4) Conserve and improve the condition of the existing  
36 affordable housing stock, which may include addressing ways to  
37 mitigate the loss of dwelling units demolished by public or private  
38 action.

1 (5) Promote housing opportunities for all persons regardless of  
2 race, religion, sex, marital status, ancestry, national origin, color,  
3 familial status, or disability.

4 (6) Preserve for lower income households the assisted housing  
5 developments identified pursuant to paragraph (9) of subdivision  
6 (a). The program for preservation of the assisted housing  
7 developments shall utilize, to the extent necessary, all available  
8 federal, state, and local financing and subsidy programs identified  
9 in paragraph (9) of subdivision (a), except where a community has  
10 other urgent needs for which alternative funding sources are not  
11 available. The program may include strategies that involve local  
12 regulation and technical assistance.

13 (7) The program shall include an identification of the agencies  
14 and officials responsible for the implementation of the various  
15 actions and the means by which consistency will be achieved with  
16 other general plan elements and community goals. The local  
17 government shall make a diligent effort to achieve public  
18 participation of all economic segments of the community in the  
19 development of the housing element, and the program shall  
20 describe this effort.

21 (d) (1) A local government may satisfy all or part of its  
22 requirement to identify a zone or zones suitable for the  
23 development of emergency shelters pursuant to paragraph (4) of  
24 subdivision (a) by adopting and implementing a multijurisdictional  
25 agreement, with a maximum of two other adjacent communities,  
26 that requires the participating jurisdictions to develop at least one  
27 year-round emergency shelter within two years of the beginning  
28 of the planning period.

29 (2) The agreement shall allocate a portion of the new shelter  
30 capacity to each jurisdiction as credit towards its emergency shelter  
31 need, and each jurisdiction shall describe how the capacity was  
32 allocated as part of its housing element.

33 (3) Each member jurisdiction of a multijurisdictional agreement  
34 shall describe in its housing element all of the following:

35 (A) How the joint facility will meet the jurisdiction's emergency  
36 shelter need.

37 (B) The jurisdiction's contribution to the facility for both the  
38 development and ongoing operation and management of the  
39 facility.

1 (C) The amount and source of the funding that the jurisdiction  
2 contributes to the facility.

3 (4) The aggregate capacity claimed by the participating  
4 jurisdictions in their housing elements shall not exceed the actual  
5 capacity of the shelter.

6 (e) Except as otherwise provided in this article, amendments to  
7 this article that alter the required content of a housing element  
8 shall apply to both of the following:

9 (1) A housing element or housing element amendment prepared  
10 pursuant to subdivision (e) of Section 65588 or Section 65584.02,  
11 when a city, county, or city and county submits a draft to the  
12 department for review pursuant to Section 65585 more than 90  
13 days after the effective date of the amendment to this section.

14 (2) Any housing element or housing element amendment  
15 prepared pursuant to subdivision (e) of Section 65588 or Section  
16 65584.02, when the city, county, or city and county fails to submit  
17 the first draft to the department before the due date specified in  
18 Section 65588 or 65584.02.

19 (f) The deadline for completing required rezoning pursuant to  
20 subparagraph (A) of paragraph (1) of subdivision (c) shall be  
21 extended by one year if the local government has completed the  
22 rezoning at densities sufficient to accommodate at least 75 percent  
23 of the sites for low- and very low income households and if the  
24 legislative body at the conclusion of a public hearing determines,  
25 based upon substantial evidence, that any of the following  
26 circumstances exist:

27 (1) The local government has been unable to complete the  
28 rezoning because of the action or inaction beyond the control of  
29 the local government of any other state federal or local agency.

30 (2) The local government is unable to complete the rezoning  
31 because of infrastructure deficiencies due to fiscal or regulatory  
32 constraints.

33 (3) The local government must undertake a major revision to  
34 its general plan in order to accommodate the housing related  
35 policies of a sustainable communities strategy or an alternative  
36 planning strategy adopted pursuant to Section 65080.

37 The resolution and the findings shall be transmitted to the  
38 department together with a detailed budget and schedule for  
39 preparation and adoption of the required rezonings, including plans  
40 for citizen participation and expected interim action. The schedule

1 shall provide for adoption of the required rezoning within one year  
2 of the adoption of the resolution.

3 (g) (1) If a local government fails to complete the rezoning by  
4 the deadline provided in subparagraph (A) of paragraph (1) of  
5 subdivision (c), as it may be extended pursuant to subdivision (f),  
6 except as provided in paragraph (2), a local government may not  
7 disapprove a housing development project, nor require a  
8 conditional use permit, planned unit development permit, or other  
9 locally imposed discretionary permit, or impose a condition that  
10 would render the project infeasible, if the housing development  
11 project (A) is proposed to be located on a site required to be  
12 rezoned pursuant to the program action required by that  
13 subparagraph; and (B) complies with applicable, objective general  
14 plan and zoning standards and criteria, including design review  
15 standards, described in the program action required by that  
16 subparagraph. Any subdivision of sites shall be subject to the  
17 Subdivision Map Act. Design review shall not constitute a “project”  
18 for purposes of Division 13 (commencing with Section 21000) of  
19 the Public Resources Code.

20 (2) A local government may disapprove a housing development  
21 described in paragraph (1) if it makes written findings supported  
22 by substantial evidence on the record that both of the following  
23 conditions exist:

24 (A) The housing development project would have a specific,  
25 adverse impact upon the public health or safety unless the project  
26 is disapproved or approved upon the condition that the project be  
27 developed at a lower density. As used in this paragraph, a “specific,  
28 adverse impact” means a significant, quantifiable, direct, and  
29 unavoidable impact, based on objective, identified written public  
30 health or safety standards, policies, or conditions as they existed  
31 on the date the application was deemed complete.

32 (B) There is no feasible method to satisfactorily mitigate or  
33 avoid the adverse impact identified pursuant to paragraph (1), other  
34 than the disapproval of the housing development project or the  
35 approval of the project upon the condition that it be developed at  
36 a lower density.

37 (3) The applicant or any interested person may bring an action  
38 to enforce this subdivision. If a court finds that the local agency  
39 disapproved a project or conditioned its approval in violation of  
40 this subdivision, the court shall issue an order or judgment

1 compelling compliance within 60 days. The court shall retain  
2 jurisdiction to ensure that its order or judgment is carried out. If  
3 the court determines that its order or judgment has not been carried  
4 out within 60 days, the court may issue further orders to ensure  
5 that the purposes and policies of this subdivision are fulfilled. In  
6 any such action, the city, county, or city and county shall bear the  
7 burden of proof.

8 (4) For purposes of this subdivision, “housing development  
9 project” means a project to construct residential units for which  
10 the project developer provides sufficient legal commitments to the  
11 appropriate local agency to ensure the continued availability and  
12 use of at least 49 percent of the housing units for very low, low-,  
13 and moderate-income households with an affordable housing cost  
14 or affordable rent, as defined in Section 50052.5 or 50053 of the  
15 Health and Safety Code, respectively, for the period required by  
16 the applicable financing.

17 (h) An action to enforce the program actions of the housing  
18 element shall be brought pursuant to Section 1085 of the Code of  
19 Civil Procedure.

20 *SEC. 3.5. Section 65583 of the Government Code is amended*  
21 *to read:*

22 65583. The housing element shall consist of an identification  
23 and analysis of existing and projected housing needs and a  
24 statement of goals, policies, quantified objectives, financial  
25 resources, and scheduled programs for the preservation,  
26 improvement, and development of housing. The housing element  
27 shall identify adequate sites for housing, including rental housing,  
28 factory-built housing, mobilehomes, and emergency shelters, and  
29 shall make adequate provision for the existing and projected needs  
30 of all economic segments of the community. The element shall  
31 contain all of the following:

32 (a) An assessment of housing needs and an inventory of  
33 resources and constraints relevant to the meeting of these needs.  
34 The assessment and inventory shall include all of the following:

35 (1) An analysis of population and employment trends and  
36 documentation of projections and a quantification of the locality’s  
37 existing and projected housing needs for all income levels,  
38 including extremely low income households, as defined in  
39 subdivision (b) of Section 50105 and Section 50106 of the Health  
40 and Safety Code. These existing and projected needs shall include

1 the locality's share of the regional housing need in accordance  
2 with Section 65584. Local agencies shall calculate the subset of  
3 very low income households allotted under Section 65584 that  
4 qualify as extremely low income households. The local agency  
5 may either use available census data to calculate the percentage  
6 of very low income households that qualify as extremely low  
7 income households or presume that 50 percent of the very low  
8 income households qualify as extremely low income households.  
9 The number of extremely low income households and very low  
10 income households shall equal the jurisdiction's allocation of very  
11 low income households pursuant to Section 65584.

12 (2) An analysis and documentation of household characteristics,  
13 including level of payment compared to ability to pay, housing  
14 characteristics, including overcrowding, and housing stock  
15 condition.

16 (3) An inventory of land suitable for residential development,  
17 including vacant sites and sites having potential for redevelopment,  
18 and an analysis of the relationship of zoning and public facilities  
19 and services to these sites.

20 (4) (A) The identification of a zone or zones where emergency  
21 shelters are allowed as a permitted use without a conditional use  
22 or other discretionary permit. The identified zone or zones shall  
23 include sufficient capacity to accommodate the need for emergency  
24 shelter identified in paragraph (7), except that each local  
25 government shall identify a zone or zones that can accommodate  
26 at least one year-round emergency shelter. If the local government  
27 cannot identify a zone or zones with sufficient capacity, the local  
28 government shall include a program to amend its zoning ordinance  
29 to meet the requirements of this paragraph within one year of the  
30 adoption of the housing element. The local government may  
31 identify additional zones where emergency shelters are permitted  
32 with a conditional use permit. The local government shall also  
33 demonstrate that existing or proposed permit processing,  
34 development, and management standards are objective and  
35 encourage and facilitate the development of, or conversion to,  
36 emergency shelters. Emergency shelters may only be subject to  
37 those development and management standards that apply to  
38 residential or commercial development within the same zone except  
39 that a local government may apply written, objective standards  
40 that include all of the following:



1 (i) The maximum number of beds or persons permitted to be  
2 served nightly by the facility.

3 (ii) Off-street parking based upon demonstrated need, provided  
4 that the standards do not require more parking for emergency  
5 shelters than for other residential or commercial uses within the  
6 same zone.

7 (iii) The size and location of exterior and interior onsite waiting  
8 and client intake areas.

9 (iv) The provision of onsite management.

10 (v) The proximity to other emergency shelters, provided that  
11 emergency shelters are not required to be more than 300 feet apart.

12 (vi) The length of stay.

13 (vii) Lighting.

14 (viii) Security during hours that the emergency shelter is in  
15 operation.

16 (B) The permit processing, development, and management  
17 standards applied under this paragraph shall not be deemed to be  
18 discretionary acts within the meaning of the California  
19 Environmental Quality Act (Division 13 (commencing with Section  
20 21000) of the Public Resources Code).

21 (C) A local government that can demonstrate to the satisfaction  
22 of the department the existence of one or more emergency shelters  
23 either within its jurisdiction or pursuant to a multijurisdictional  
24 agreement that can accommodate that jurisdiction's need for  
25 emergency shelter identified in paragraph (7) may comply with  
26 the zoning requirements of subparagraph (A) by identifying a zone  
27 or zones where new emergency shelters are allowed with a  
28 conditional use permit.

29 (D) A local government with an existing ordinance or ordinances  
30 that comply with this paragraph shall not be required to take  
31 additional action to identify zones for emergency shelters. The  
32 housing element must only describe how existing ordinances,  
33 policies, and standards are consistent with the requirements of this  
34 paragraph.

35 (5) An analysis of potential and actual governmental constraints  
36 upon the maintenance, improvement, or development of housing  
37 for all income levels, including the types of housing identified in  
38 paragraph (1) of subdivision (c), and for persons with disabilities  
39 as identified in the analysis pursuant to paragraph (7), including  
40 land use controls, building codes and their enforcement, site

1 improvements, fees and other exactions required of developers,  
2 and local processing and permit procedures. The analysis shall  
3 also demonstrate local efforts to remove governmental constraints  
4 that hinder the locality from meeting its share of the regional  
5 housing need in accordance with Section 65584 and from meeting  
6 the need for housing for persons with disabilities, supportive  
7 housing, transitional housing, and emergency shelters identified  
8 pursuant to paragraph (7). Transitional housing and supportive  
9 housing shall be considered a residential use of property, and shall  
10 be subject only to those restrictions that apply to other residential  
11 dwellings of the same type in the same zone.

12 (6) An analysis of potential and actual nongovernmental  
13 constraints upon the maintenance, improvement, or development  
14 of housing for all income levels, including the availability of  
15 financing, the price of land, and the cost of construction.

16 (7) An analysis of any special housing needs, such as those of  
17 the elderly, persons with disabilities, large families, farmworkers,  
18 families with female heads of households, and families and persons  
19 in need of emergency shelter. The need for emergency shelter shall  
20 be assessed based on annual and seasonal need. The need for  
21 emergency shelter may be reduced by the number of supportive  
22 housing units that are identified in an adopted 10-year plan to end  
23 chronic homelessness and that are either vacant or for which  
24 funding has been identified to allow construction during the  
25 planning period.

26 (8) An analysis of opportunities for energy conservation with  
27 respect to residential development. *Cities and counties are*  
28 *encouraged to include weatherization and energy efficiency*  
29 *improvements as part of publicly subsidized housing rehabilitation*  
30 *projects. This may include energy efficiency measures that*  
31 *encompass the building envelope, its heating and cooling systems,*  
32 *and its electrical system.*

33 (9) An analysis of existing assisted housing developments that  
34 are eligible to change from low-income housing uses during the  
35 next 10 years due to termination of subsidy contracts, mortgage  
36 prepayment, or expiration of restrictions on use. "Assisted housing  
37 developments," for the purpose of this section, shall mean  
38 multifamily rental housing that receives governmental assistance  
39 under federal programs listed in subdivision (a) of Section  
40 65863.10, state and local multifamily revenue bond programs,

1 local redevelopment programs, the federal Community  
2 Development Block Grant Program, or local in-lieu fees. “Assisted  
3 housing developments” shall also include multifamily rental units  
4 that were developed pursuant to a local inclusionary housing  
5 program or used to qualify for a density bonus pursuant to Section  
6 65916.

7 (A) The analysis shall include a listing of each development by  
8 project name and address, the type of governmental assistance  
9 received, the earliest possible date of change from low-income  
10 use, and the total number of elderly and nonelderly units that could  
11 be lost from the locality’s low-income housing stock in each year  
12 during the 10-year period. For purposes of state and federally  
13 funded projects, the analysis required by this subparagraph need  
14 only contain information available on a statewide basis.

15 (B) The analysis shall estimate the total cost of producing new  
16 rental housing that is comparable in size and rent levels, to replace  
17 the units that could change from low-income use, and an estimated  
18 cost of preserving the assisted housing developments. This cost  
19 analysis for replacement housing may be done aggregately for  
20 each five-year period and does not have to contain a  
21 project-by-project cost estimate.

22 (C) The analysis shall identify public and private nonprofit  
23 corporations known to the local government which have legal and  
24 managerial capacity to acquire and manage these housing  
25 developments.

26 (D) The analysis shall identify and consider the use of all federal,  
27 state, and local financing and subsidy programs which can be used  
28 to preserve, for lower income households, the assisted housing  
29 developments, identified in this paragraph, including, but not  
30 limited to, federal Community Development Block Grant Program  
31 funds, tax increment funds received by a redevelopment agency  
32 of the community, and administrative fees received by a housing  
33 authority operating within the community. In considering the use  
34 of these financing and subsidy programs, the analysis shall identify  
35 the amounts of funds under each available program which have  
36 not been legally obligated for other purposes and which could be  
37 available for use in preserving assisted housing developments.

38 (b) (1) A statement of the community’s goals, quantified  
39 objectives, and policies relative to the maintenance, preservation,  
40 improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing,

1 single-room occupancy units, emergency shelters, and transitional  
2 housing.

3 (A) Where the inventory of sites, pursuant to paragraph (3) of  
4 subdivision (a), does not identify adequate sites to accommodate  
5 the need for groups of all household income levels pursuant to  
6 Section 65584, rezoning of those sites, including adoption of  
7 minimum density and development standards, for jurisdictions  
8 with an eight-year housing element planning period pursuant to  
9 Section 65588, shall be completed no later than three years after  
10 either the date the housing element is adopted pursuant to  
11 subdivision (f) of Section 65585 or the date that is 90 days after  
12 receipt of comments from the department pursuant to subdivision  
13 (b) of Section 65585, whichever is earlier, unless the deadline is  
14 extended pursuant to subdivision (f). Notwithstanding the  
15 foregoing, for a local government that fails to adopt a housing  
16 element within 120 days of the statutory deadline in Section 65588  
17 for adoption of the housing element, rezoning of those sites,  
18 including adoption of minimum density and development standards,  
19 shall be completed no later than three years and 120 days from the  
20 statutory deadline in Section 65588 for adoption of the housing  
21 element.

22 (B) Where the inventory of sites, pursuant to paragraph (3) of  
23 subdivision (a), does not identify adequate sites to accommodate  
24 the need for groups of all household income levels pursuant to  
25 Section 65584, the program shall identify sites that can be  
26 developed for housing within the planning period pursuant to  
27 subdivision (h) of Section 65583.2. The identification of sites shall  
28 include all components specified in subdivision (b) of Section  
29 65583.2.

30 (C) Where the inventory of sites pursuant to paragraph (3) of  
31 subdivision (a) does not identify adequate sites to accommodate  
32 the need for farmworker housing, the program shall provide for  
33 sufficient sites to meet the need with zoning that permits  
34 farmworker housing use by right, including density and  
35 development standards that could accommodate and facilitate the  
36 feasibility of the development of farmworker housing for low- and  
37 very low income households.

38 (2) Assist in the development of adequate housing to meet the  
39 needs of extremely low, very low, low-, and moderate-income  
40 households.

1 (3) Address and, where appropriate and legally possible, remove  
2 governmental constraints to the maintenance, improvement, and  
3 development of housing, including housing for all income levels  
4 and housing for persons with disabilities. The program shall remove  
5 constraints to, and provide reasonable accommodations for housing  
6 designed for, intended for occupancy by, or with supportive  
7 services for, persons with disabilities.

8 (4) Conserve and improve the condition of the existing  
9 affordable housing stock, which may include addressing ways to  
10 mitigate the loss of dwelling units demolished by public or private  
11 action.

12 (5) Promote housing opportunities for all persons regardless of  
13 race, religion, sex, marital status, ancestry, national origin, color,  
14 familial status, or disability.

15 (6) Preserve for lower income households the assisted housing  
16 developments identified pursuant to paragraph (9) of subdivision  
17 (a). The program for preservation of the assisted housing  
18 developments shall utilize, to the extent necessary, all available  
19 federal, state, and local financing and subsidy programs identified  
20 in paragraph (9) of subdivision (a), except where a community has  
21 other urgent needs for which alternative funding sources are not  
22 available. The program may include strategies that involve local  
23 regulation and technical assistance.

24 (7) The program shall include an identification of the agencies  
25 and officials responsible for the implementation of the various  
26 actions and the means by which consistency will be achieved with  
27 other general plan elements and community goals. The local  
28 government shall make a diligent effort to achieve public  
29 participation of all economic segments of the community in the  
30 development of the housing element, and the program shall  
31 describe this effort.

32 (d) (1) A local government may satisfy all or part of its  
33 requirement to identify a zone or zones suitable for the  
34 development of emergency shelters pursuant to paragraph (4) of  
35 subdivision (a) by adopting and implementing a multijurisdictional  
36 agreement, with a maximum of two other adjacent communities,  
37 that requires the participating jurisdictions to develop at least one  
38 year-round emergency shelter within two years of the beginning  
39 of the planning period.

1 (2) The agreement shall allocate a portion of the new shelter  
2 capacity to each jurisdiction as credit towards its emergency shelter  
3 need, and each jurisdiction shall describe how the capacity was  
4 allocated as part of its housing element.

5 (3) Each member jurisdiction of a multijurisdictional agreement  
6 shall describe in its housing element all of the following:

7 (A) How the joint facility will meet the jurisdiction's emergency  
8 shelter need.

9 (B) The jurisdiction's contribution to the facility for both the  
10 development and ongoing operation and management of the  
11 facility.

12 (C) The amount and source of the funding that the jurisdiction  
13 contributes to the facility.

14 (4) The aggregate capacity claimed by the participating  
15 jurisdictions in their housing elements shall not exceed the actual  
16 capacity of the shelter.

17 (e) Except as otherwise provided in this article, amendments to  
18 this article that alter the required content of a housing element  
19 shall apply to both of the following:

20 (1) A housing element or housing element amendment prepared  
21 pursuant to subdivision (e) of Section 65588 or Section 65584.02,  
22 when a city, county, or city and county submits a draft to the  
23 department for review pursuant to Section 65585 more than 90  
24 days after the effective date of the amendment to this section.

25 (2) Any housing element or housing element amendment  
26 prepared pursuant to subdivision (e) of Section 65588 or Section  
27 65584.02, when the city, county, or city and county fails to submit  
28 the first draft to the department before the due date specified in  
29 Section 65588 or 65584.02.

30 (f) The deadline for completing required rezoning pursuant to  
31 subparagraph (A) of paragraph (1) of subdivision (c) shall be  
32 extended by one year if the local government has completed the  
33 rezoning at densities sufficient to accommodate at least 75 percent  
34 of the ~~sites~~ *units* for low- and very low income households and if  
35 the legislative body at the conclusion of a public hearing  
36 determines, based upon substantial evidence, that any of the  
37 following circumstances exist:

38 (1) The local government has been unable to complete the  
39 rezoning because of the action or inaction beyond the control of  
40 the local government of any other state federal or local agency.

1 (2) The local government is unable to complete the rezoning  
2 because of infrastructure deficiencies due to fiscal or regulatory  
3 constraints.

4 (3) The local government must undertake a major revision to  
5 its general plan in order to accommodate the housing related  
6 policies of a sustainable communities strategy or an alternative  
7 planning strategy adopted pursuant to Section 65080.

8 The resolution and the findings shall be transmitted to the  
9 department together with a detailed budget and schedule for  
10 preparation and adoption of the required rezonings, including plans  
11 for citizen participation and expected interim action. The schedule  
12 shall provide for adoption of the required rezoning within one year  
13 of the adoption of the resolution.

14 (g) (1) If a local government fails to complete the rezoning by  
15 the deadline provided in subparagraph (A) of paragraph (1) of  
16 subdivision (c), as it may be extended pursuant to subdivision (f),  
17 except as provided in paragraph (2), a local government may not  
18 disapprove a housing development project, nor require a  
19 conditional use permit, planned unit development permit, or other  
20 locally imposed discretionary permit, or impose a condition that  
21 would render the project infeasible, if the housing development  
22 project (A) is proposed to be located on a site required to be  
23 rezoned pursuant to the program action required by that  
24 subparagraph; and (B) complies with applicable, objective general  
25 plan and zoning standards and criteria, including design review  
26 standards, described in the program action required by that  
27 subparagraph. Any subdivision of sites shall be subject to the  
28 Subdivision Map Act. Design review shall not constitute a “project”  
29 for purposes of Division 13 (commencing with Section 21000) of  
30 the Public Resources Code.

31 (2) A local government may disapprove a housing development  
32 described in paragraph (1) if it makes written findings supported  
33 by substantial evidence on the record that both of the following  
34 conditions exist:

35 (A) The housing development project would have a specific,  
36 adverse impact upon the public health or safety unless the project  
37 is disapproved or approved upon the condition that the project be  
38 developed at a lower density. As used in this paragraph, a “specific,  
39 adverse impact” means a significant, quantifiable, direct, and  
40 unavoidable impact, based on objective, identified written public



1 health or safety standards, policies, or conditions as they existed  
2 on the date the application was deemed complete.

3 (B) There is no feasible method to satisfactorily mitigate or  
4 avoid the adverse impact identified pursuant to paragraph (1), other  
5 than the disapproval of the housing development project or the  
6 approval of the project upon the condition that it be developed at  
7 a lower density.

8 (3) The applicant or any interested person may bring an action  
9 to enforce this subdivision. If a court finds that the local agency  
10 disapproved a project or conditioned its approval in violation of  
11 this subdivision, the court shall issue an order or judgment  
12 compelling compliance within 60 days. The court shall retain  
13 jurisdiction to ensure that its order or judgment is carried out. If  
14 the court determines that its order or judgment has not been carried  
15 out within 60 days, the court may issue further orders to ensure  
16 that the purposes and policies of this subdivision are fulfilled. In  
17 any such action, the city, county, or city and county shall bear the  
18 burden of proof.

19 (4) For purposes of this subdivision, “housing development  
20 project” means a project to construct residential units for which  
21 the project developer provides sufficient legal commitments to the  
22 appropriate local agency to ensure the continued availability and  
23 use of at least 49 percent of the housing units for very low, low-,  
24 and moderate-income households with an affordable housing cost  
25 or affordable rent, as defined in Section 50052.5 or 50053 of the  
26 Health and Safety Code, respectively, for the period required by  
27 the applicable financing.

28 (h) An action to enforce the program actions of the housing  
29 element shall be brought pursuant to Section 1085 of the Code of  
30 Civil Procedure.

31 ~~SEC. 3.~~

32 *SEC. 4.* Section 65583.1 of the Government Code is amended  
33 to read:

34 ~~65583.1. (a) For purposes of this section, a city, county, or~~  
35 ~~city and county may include weatherization and energy efficiency~~  
36 ~~improvements as part of its efforts to substantially rehabilitate a~~  
37 ~~unit. This may include energy efficiency measures that encompass~~  
38 ~~the building envelope, its heating and cooling systems, and its~~  
39 ~~electrical system.~~

40 ~~(b) The Department of Housing and Community Development,~~

1     65583.1. (a) *The Department of Housing and Community*  
2     *Development*, in evaluating a proposed or adopted housing element  
3     for substantial compliance with this article, may allow a city or  
4     county to identify adequate sites, as required pursuant to Section  
5     65583, by a variety of methods, including, but not limited to,  
6     redesignation of property to a more intense land use category and  
7     increasing the density allowed within one or more categories. The  
8     department may also allow a city or county to identify sites for  
9     second units based on the number of second units developed in  
10    the prior housing element planning period whether or not the units  
11    are permitted by right, the need for these units in the community,  
12    the resources or incentives available for their development, and  
13    any other relevant factors, as determined by the department.  
14    Nothing in this section reduces the responsibility of a city or county  
15    to identify, by income category, the total number of sites for  
16    residential development as required by this article.

17    ~~(e)~~

18    (b) Sites that contain permanent housing units located on a  
19    military base undergoing closure or conversion as a result of action  
20    pursuant to the Defense Authorization Amendments and Base  
21    Closure and Realignment Act (Public Law 100-526), the Defense  
22    Base Closure and Realignment Act of 1990 (Public Law 101-510),  
23    or any subsequent act requiring the closure or conversion of a  
24    military base may be identified as an adequate site if the housing  
25    element demonstrates that the housing units will be available for  
26    occupancy by households within the planning period of the  
27    element. No sites containing housing units scheduled or planned  
28    for demolition or conversion to nonresidential uses shall qualify  
29    as an adequate site.

30    Any city, city and county, or county using this subdivision shall  
31    address the progress in meeting this section in the reports provided  
32    pursuant to paragraph (1) of subdivision (b) of Section 65400.

33    ~~(d)~~

34    (c) (1) The Department of Housing and Community  
35    Development may allow a city or county to substitute the provision  
36    of units for up to 25 percent of the community's obligation to  
37    identify adequate sites for any income category in its housing  
38    element pursuant to paragraph (1) of subdivision (c) of Section  
39    65583 where the community includes in its housing element a  
40    program committing the local government to provide units in that

1 income category within the city or county that will be made  
2 available through the provision of committed assistance during  
3 the planning period covered by the element to low- and very low  
4 income households at affordable housing costs or affordable rents,  
5 as defined in Sections 50052.5 and 50053 of the Health and Safety  
6 Code, and which meet the requirements of paragraph (2). Except  
7 as otherwise provided in this subdivision, the community may  
8 substitute one dwelling unit for one dwelling unit site in the  
9 applicable income category. The program shall do all of the  
10 following:

11 (A) Identify the specific, existing sources of committed  
12 assistance and dedicate a specific portion of the funds from those  
13 sources to the provision of housing pursuant to this subdivision.

14 (B) Indicate the number of units that will be provided to both  
15 low- and very low income households and demonstrate that the  
16 amount of dedicated funds is sufficient to develop the units at  
17 affordable housing costs or affordable rents.

18 (C) Demonstrate that the units meet the requirements of  
19 paragraph (2).

20 (2) Only units that comply with subparagraph (A), (B), or (C)  
21 qualify for inclusion in the housing element program described in  
22 paragraph (1), as follows:

23 (A) Units that are to be substantially rehabilitated with  
24 committed assistance from the city or county and constitute a net  
25 increase in the community's stock of housing affordable to low-  
26 and very low income households. For purposes of this  
27 subparagraph, a unit is not eligible to be "substantially  
28 rehabilitated" unless all of the following requirements are met:

29 (i) At the time the unit is identified for substantial rehabilitation,  
30 (I) the local government has determined that the unit is at imminent  
31 risk of loss to the housing stock, (II) the local government has  
32 committed to provide relocation assistance pursuant to Chapter 16  
33 (commencing with Section 7260) of Division 7 of Title 1 to any  
34 occupants temporarily or permanently displaced by the  
35 rehabilitation or code enforcement activity, or the relocation is  
36 otherwise provided prior to displacement either as a condition of  
37 receivership, or provided by the property owner or the local  
38 government pursuant to Article 2.5 (commencing with Section  
39 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and  
40 Safety Code, or as otherwise provided by local ordinance; provided

1 the assistance includes not less than the equivalent of four months'  
2 rent and moving expenses and comparable replacement housing  
3 consistent with the moving expenses and comparable replacement  
4 housing required pursuant to Section 7260, (III) the local  
5 government requires that any displaced occupants will have the  
6 right to reoccupy the rehabilitated units, and (IV) the unit has been  
7 found by the local government or a court to be unfit for human  
8 habitation due to the existence of at least four violations of the  
9 conditions listed in subdivisions (a) to (g), inclusive, of Section  
10 17995.3 of the Health and Safety Code.

11 (ii) The rehabilitated unit will have long-term affordability  
12 covenants and restrictions that require the unit to be available to,  
13 and occupied by, persons or families of low- or very low income  
14 at affordable housing costs for at least 20 years or the time period  
15 required by any applicable federal or state law or regulation.

16 (iii) Prior to initial occupancy after rehabilitation, the local code  
17 enforcement agency shall issue a certificate of occupancy indicating  
18 compliance with all applicable state and local building code and  
19 health and safety code requirements.

20 (B) Units that are located in a multifamily rental housing  
21 complex of four or more units, are converted with committed  
22 assistance from the city or county from nonaffordable to affordable  
23 by acquisition of the unit or the purchase of affordability covenants  
24 and restrictions for the unit, are not acquired by eminent domain,  
25 and constitute a net increase in the community's stock of housing  
26 affordable to low- and very low income households. For purposes  
27 of this subparagraph, a unit is not converted by acquisition or the  
28 purchase of affordability covenants unless all of the following  
29 occur:

30 (i) The unit is made available at a cost affordable to low- or  
31 very low income households.

32 (ii) At the time the unit is identified for acquisition, the unit is  
33 not available at an affordable housing cost to either of the  
34 following:

35 (I) Low-income households, if the unit will be made affordable  
36 to low-income households.

37 (II) Very low income households, if the unit will be made  
38 affordable to very low income households.

39 (iii) At the time the unit is identified for acquisition the unit is  
40 not occupied by low- or very low income households or if the

1 acquired unit is occupied, the local government has committed to  
2 provide relocation assistance prior to displacement, if any, pursuant  
3 to Chapter 16 (commencing with Section 7260) of Division 7 of  
4 Title 1 to any occupants displaced by the conversion, or the  
5 relocation is otherwise provided prior to displacement; provided  
6 the assistance includes not less than the equivalent of four months'  
7 rent and moving expenses and comparable replacement housing  
8 consistent with the moving expenses and comparable replacement  
9 housing required pursuant to Section 7260.

10 (iv) The unit is in decent, safe, and sanitary condition at the  
11 time of occupancy.

12 (v) The unit has long-term affordability covenants and  
13 restrictions that require the unit to be affordable to persons of low-  
14 or very low income for not less than 55 years.

15 (C) Units that will be preserved at affordable housing costs to  
16 persons or families of low- or very low incomes with committed  
17 assistance from the city or county by acquisition of the unit or the  
18 purchase of affordability covenants for the unit. For purposes of  
19 this subparagraph, a unit shall not be deemed preserved unless all  
20 of the following occur:

21 (i) The unit has long-term affordability covenants and  
22 restrictions that require the unit to be affordable to and reserved  
23 for occupancy by persons of the same or lower income group as  
24 the current occupants for a period of at least 40 years.

25 (ii) The unit is within an "assisted housing development," as  
26 defined in paragraph (3) of subdivision (a) of Section 65863.10.

27 (iii) The city or county finds, after a public hearing, that the unit  
28 is eligible, and is reasonably expected, to change from housing  
29 affordable to low- and very low income households to any other  
30 use during the next five years due to termination of subsidy  
31 contracts, mortgage prepayment, or expiration of restrictions on  
32 use.

33 (iv) The unit is in decent, safe, and sanitary condition at the  
34 time of occupancy.

35 (v) At the time the unit is identified for preservation it is  
36 available at affordable cost to persons or families of low- or very  
37 low income.

38 (3) This subdivision does not apply to any city or county that,  
39 during the current or immediately prior planning period, as defined  
40 by Section 65588, has not met any of its share of the regional need

1 for affordable housing, as defined in Section 65584, for low- and  
2 very low income households. A city or county shall document for  
3 any housing unit that a building permit has been issued and all  
4 development and permit fees have been paid or the unit is eligible  
5 to be lawfully occupied.

6 (4) For purposes of this subdivision, “committed assistance”  
7 means that the city or county enters into a legally enforceable  
8 agreement during the period from the beginning of the projection  
9 period until the end of the second year of the planning period that  
10 obligates sufficient available funds to provide the assistance  
11 necessary to make the identified units affordable and that requires  
12 that the units be made available for occupancy within two years  
13 of the execution of the agreement. “Committed assistance” does  
14 not include tenant-based rental assistance.

15 (5) For purposes of this subdivision, “net increase” includes  
16 only housing units provided committed assistance pursuant to  
17 subparagraph (A) or (B) of paragraph (2) in the current planning  
18 period, as defined in Section 65588, that were not provided  
19 committed assistance in the immediately prior planning period.

20 (6) For purposes of this subdivision, “the time the unit is  
21 identified” means the earliest time when any city or county agent,  
22 acting on behalf of a public entity, has proposed in writing or has  
23 proposed orally or in writing to the property owner, that the unit  
24 be considered for substantial rehabilitation, acquisition, or  
25 preservation.

26 (7) ~~On July 1 of~~ *In* the third year of the planning period, as  
27 defined by Section 65588, in the report required pursuant to Section  
28 65400, each city or county that has included in its housing element  
29 a program to provide units pursuant to subparagraph (A), (B), or  
30 (C) of paragraph (2) shall report in writing to the legislative body,  
31 and to the department within 30 days of making its report to the  
32 legislative body, on its progress in providing units pursuant to this  
33 subdivision. The report shall identify the specific units for which  
34 committed assistance has been provided or which have been made  
35 available to low- and very low income households, and it shall  
36 adequately document how each unit complies with this subdivision.  
37 If, by July 1 of the third year of the planning period, the city or  
38 county has not entered into an enforceable agreement of committed  
39 assistance for all units specified in the programs adopted pursuant  
40 to subparagraph (A), (B), or (C) of paragraph (2), the city or county

1 shall, not later than July 1 of the fourth year of the planning period,  
2 adopt an amended housing element in accordance with Section  
3 65585, identifying additional adequate sites pursuant to paragraph  
4 (1) of subdivision (c) of Section 65583 sufficient to accommodate  
5 the number of units for which committed assistance was not  
6 provided. If a city or county does not amend its housing element  
7 to identify adequate sites to address any shortfall, or fails to  
8 complete the rehabilitation, acquisition, purchase of affordability  
9 covenants, or the preservation of any housing unit within two years  
10 after committed assistance was provided to that unit, it shall be  
11 prohibited from identifying units pursuant to subparagraph (A),  
12 (B), or (C) of paragraph (2) in the housing element that it adopts  
13 for the next planning period, as defined in Section 65588, above  
14 the number of units actually provided or preserved due to  
15 committed assistance.

16 ~~SEC. 4.~~

17 *SEC. 5.* Section 2 of this bill shall become operative only if  
18 Senate Bill 575 of the 2009–10 Regular Session is not enacted.

19 *SEC. 6.* Section 3.5 of this bill incorporates amendments to  
20 Section 65583 of the Government Code proposed by both this bill  
21 and SB 575. It shall only become operative if (1) both bills are  
22 enacted and become effective on or before January 1, 2010, (2)  
23 each bill amends Section 65583 of the Government Code, and (3)  
24 this bill is enacted after SB 575, in which case Section 3 of this  
25 bill shall not become operative.